

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 2:12-cr-00025-MR-DLH**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ESCOVIO RIOS,

Defendant.

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ORDER

THIS MATTER is before the Court on the Defendant's "Motion to Dismiss Indictment Conviction and Sentence for of Exclusive Legislative and Subject Matter Jurisdiction P[u]rsuant to Rule 12(b)(1) Federal Rules of Civil Procedure" [Doc. 102] and the Defendant's "Request for the Court to Consider the Complaint Affidavit in Support of Motion to Dismiss..." [Doc. 103].

On March 27, 2013, the Defendant was found guilty by a jury of conspiracy to possess with intent to distribute a quantity of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846. [Doc. 42]. The Defendant was sentenced on April 24, 2014 to a term of 151 months' imprisonment. [Doc. 80]. The Fourth Circuit Court of Appeals affirmed the

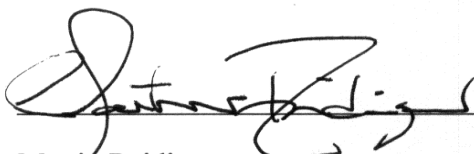
Defendant's conviction and sentence on February 2, 2015. United States v. Rios, No. 14-4352 (4th Cir. Feb. 2, 2015).

The Defendant now moves to dismiss the Indictment and vacate his conviction for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. Specifically, the Defendant argues that the federal government lacked jurisdiction to prosecute him because he was arrested on private property and not on property belonging to the United States. [Doc. 102]. The Defendant's argument is patently frivolous, and therefore his motions will be denied.

IT IS, THEREFORE, ORDERED that the Defendant's "Motion to Dismiss Indictment Conviction and Sentence for of Exclusive Legislative and Subject Matter Jurisdiction P[u]rsuant to Rule 12(b)(1) Federal Rules of Civil Procedure" [Doc. 102] and the Defendant's "Request for the Court to Consider the Complaint Affidavit in Support of Motion to Dismiss..." [Doc. 103] are both **DENIED**.

IT IS SO ORDERED.

Signed: May 14, 2015


Martin Reidinger
United States District Judge

